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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

Conservatorship of the Person and
Estate of KATHRYN S.

ORANGE COUNTY PUBLIC
GUARDIAN,

Petitioner and Respondent,

v.

KATHRYN S.,

Objector and Appellant.

G056541

(Super. Ct. No. 30-2016-00888096)

OPINION

Appeal from an order of the Superior Court of Orange County, Gerald G. Johnston, Judge. Motion to dismiss appeal granted.

Suzanne Davidson, under appointment by the Court of Appeal, for Objector and Appellant.

Leon J. Page, County Counsel, Robert Ervais and Brad R. Posin, Deputy County Counsel, for Petitioner and Respondent.

A couple of years ago, Orange County Public Guardian (Public Guardian) petitioned the superior court to establish a conservatorship for appellant Kathryn S. and her estate pursuant to the Lanterman-Petris-Short Act (Welf. & Inst. Code, §§ 5000-5466). The trial court did so after concluding appellant was “gravely disabled,” as that term is defined in the Act.

Before the one-year conservatorship expired by operation of law, the Public Guardian filed a petition to be reappointed as appellant’s conservator. After due notice to appellant and a hearing at which appellant’s counsel represented she submitted to the conservatorship, the court granted the petition for reappointment. Within days, appellant filed a petition for rehearing. Among the witnesses testifying on her behalf were her mother and her mother’s friend. They both claimed the conservatorship was no longer needed because they were willing and able to care for appellant. The trial court disagreed and denied the rehearing petition. Appellant appeals from the resulting order.

While this appeal was pending, the Public Guardian petitioned the superior court to terminate the conservatorship. The court found the conservatorship was no longer required and did so. We granted Public Guardian’s request for judicial notice of the termination order.

Public Guardian filed a motion to dismiss the appeal as moot given the trial court’s subsequent termination of the conservatorship. Appellant opposes the motion. She does not dispute the Public Guardian’s assertion of mootness, but instead argues we should exercise our discretion to address the merits of her appeal because the issues she raises are capable of repetition but likely to evade review. We disagree.

The trial court terminated the conservatorship, and this is precisely the end result appellant seeks through her appeal. The appeal is therefore moot. (*People v. Rish* (2008) 163 Cal.App.4th 1370, 1380; *In re Dani R.* (2001) 89 Cal.App.4th 402, 406.)

Although case law recognizes an exception for appeals which “raise[] issues that are capable of repetition yet avoiding review” (*Conservatorship of Carol K.*

(2010) 188 Cal.App.4th 123, 133), this case is readily distinguishable from those in which courts have applied that principle to save an appeal. It generally occurs when a party appeals from the establishment of a conservatorship and the conservatorship automatically terminates by operation of law prior to resolution of the appeal. (See, e.g., *Conservatorship of Manon* (1985) 39 Cal.3d 645, 647, fn. 1; *Conservatorship of Joel E.* (2005) 132 Cal.App.4th 429, 434; *Conservatorship of Forsythe* (1987) 192 Cal.App.3d 1406, 1409.) Here, appellant's conservatorship terminated by court order, not by operation of law. And no ""collateral consequences"" will remain if the appeal is dismissed as moot. (*Conservatorship of Carol K.*, at p. 133.)

Contrary to appellant's assertion, her appeal does not present an issue of public interest or an important legal point that could evade review. She claims the superior court erred in finding her "gravely disabled" because her evidence demonstrated her mother and mother's friend were willing and able to care for her. But these are factual matters specific to appellant's condition and her mother's situation at one moment in time in the past. It is extremely unlikely the trial court will once again be faced with precisely those same facts. And if at some point in the future the Public Guardian once again files a petition to establish a conservatorship for appellant, the trial court will have to weigh evidence specifically related to that future moment in time. Any resulting concerns appellant may have would be handled in a subsequent appeal, and resolution of this appeal would have no impact on it. (See *MHC Operating Limited Partnership v. City of San Jose* (2003) 106 Cal.App.4th 204, 215 [finding appeal moot because issues presented were factual in nature and required resolution on case-by-case basis].)

For these reasons, we grant Public Guardian's motion to dismiss the appeal.
In the interests of justice, the parties shall bear their own costs on appeal.

THOMPSON, J.

WE CONCUR:

IKOLA, ACTING P. J.

GOETHALS, J.